

Dorothy Ruffin,
Plaintiff

Civil Action No.

v.

Psychic Gallery,
Defendant

COMPLAINT

Comes now the plaintiff, Dorothy Ruffin, for a complaint against the defendant above named, states, alleges, and avers as follows:

JURISDICTION

1. This Court has subject matter jurisdiction under 28 U.S.C. sections 1331 and 1343.
2. This action is commenced pursuant to 28 U.S.C. sections 2201 and 2202 and 42 U.S.C., section 1983.

GENERAL ALLEGATIONS

3. The plaintiff, Dorothy Ruffin, is a citizen of the State of Pennsylvania, United States of America.
4. Defendant, Psychic Gallery, owns and at all times pertinent to the complaint has owned a commercial business.
5. Plaintiff is an individual with disabilities that cause a mobility impairment. Dorothy Ruffin uses a motorized wheelchair for mobility. Plaintiff would like to shop at defendant's store, but the store is inaccessible to persons using wheelchairs.
6. On July 26, 1990, Congress enacted the Americans with Disabilities Act, 42 U.S.C. section 12101, et seq., establishing the most important civil rights law for persons with disabilities in our country's history.
7. The Congressional statutory findings include: a.) "Some 43,000,000 Americans have one or more physical or mental disabilities." b.) "Historically, society has tended to isolate and segregate individuals with disabilities and despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem; c.) "Discrimination against individuals with disabilities persists in such critical areas as...public accommodations; d.) "Individuals with disabilities continually encounter various forms of discrimination, including...the discriminatory effects of architectural barriers"; e.) "The continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity...to pursue those opportunities for which our society is justifiably famous." 42 U.S.C. section 12101 (a).
8. Congress went on to state explicitly the purpose of the Americans with Disabilities Act, to be: a.) "To provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities; b.) "To provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities; and c.) "To invoke the sweep of Congressional authority...to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities." 42 U.S.C. section 12101 (b).

Case 2:09-cv-00184-HB Document 1 Filed 01/14/09 Page 3 of 7

9. Congress gave commercial businesses one and a half years to implement the Act. The effective date was January 26, 1992.

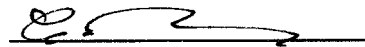
10. Nevertheless, Psychic Gallery, has not eliminated the one step barrier that prevents persons using wheelchairs from entering their business establishment.
11. One of the most important parts of the Americans with Disabilities Act is Title III, known as the "Public Accommodations and Services Operated by Private Entities." 42 U.S.C. section 12181.
12. Congress included "retail stores" as public accommodations covered by the Act. 42 U.S.C. section 12181.
13. Defendant's business at 58 North 9th Street, Philadelphia, PA 19107 is a retail store.
14. As relevant to the present action, discrimination includes, "a failure to remove architectural barriers...that are structural in nature, in existing facilities...where such is readily achievable." 42 U.S.C. section 12182 (b)(2)(A)(iv).
15. The U.S. Department of Justice, in promulgating the federal regulations to implement this Act, defined "readily achievable" to mean "easily accomplishable and able to be carried out without much difficulty or expense", including "installing an entrance ramp." 28 C.F.R. section 36.304 (a)-(c).
16. Other commercial facilities similar to the defendant's have made similar modifications, as is requested here. Defendant could easily make its business accessible but has chosen not to comply with the Americans with Disabilities Act.
17. To assist businesses with complying with the ADA, Congress has enacted a tax credit for small businesses and a tax deduction for all businesses. See section 44 and 190 of the IRS Code. An eligible small business is allowed a tax credit equal to 50% of the amount of the eligible access expenditures between \$250 and \$10,500 for any tax year. A business that removes architectural barriers, e.g. by modifying ramps, grading, entrances, doors and doorways, may receive an annual tax deduction of up to \$15,000 each year.

FIRST CLAIM OF RELIEF

19. Pursuant to the Americans with Disabilities Act, 42 U.S.C. section 12101, et. seg., and the federal regulations promulgated pursuant to this Act, 28 C.F.R. 36.304, defendant was to make the commercial facility at 58 North 9th Street, Philadelphia, PA 19107 accessible by January 26, 1992. To date defendant has not.
20. By failing to remove the architectural barrier where such removal is readily achievable, defendant discriminates against the plaintiff and violates the Americans with Disabilities Act.

WHEREFORE, the plaintiff, Dorothy Ruffin, prays that the Court issue an injunction enjoining the defendant from continuing its discrimination and that the Court award plaintiff such additional or alternative relief as may be just, proper and equitable including costs and attorneys fees.

Respectfully submitted:



Caroline Reeves, Esquire
Attorney for Plaintiff,
Dorothy Ruffin

Dated: 1/14/09



December 8, 2008

Via Certified Mail

Owner/Proprietor
Psychic Gallery
58 9th Street
Philadelphia, PA 19107

Re: Access Violations of the Americans with Disabilities Act

Dear Owner/Proprietor:

Liberty Resources, Inc. (LRI) is a Center for Independent Living for the Philadelphia area, providing programs and services to persons with disabilities. LRI has over 160 employees and serves over 5,000 disabled Philadelphians each year.

I am writing to inform you that your business does not have a wheelchair accessible entrance, which is in violation of the Americans with Disabilities Act of 1990.

I strongly urge you to make your business wheelchair accessible. If you would like assistance with this matter please contact Liberty Resources, Inc. and they will be happy to refer you to a contractor or an architect who can advise you on the construction of an accessible ramp.

Thank you very much for your attention to the above.

Sincerely,

A handwritten signature in black ink that reads "Deborah Russell". The signature is fluid and cursive, with a large, stylized "D" and "R".

Deborah Russell
Liberty Resources, Inc.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Owner/Proprietor
 Psychic gallery
 58 9th street
 Phila, PA 19107

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☒ Agent ☐ Addressee
 B. Received by (Printed Name) Jeffrey H. H. H. C. Date of Delivery 01/14/09
 D. Is delivery address different from item 1? ☐ Yes ☐ No
 If YES, enter delivery address below:

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.
 4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article

(Transf)

PS Form

395-02-M-1540

